

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Bunner, Bridget E.
)	
Kevin P. BAKER, et al.)	Art Unit: 1647
)	
Application Serial No. 10/015,822)	Confirmation No: 8184
)	
Filed: December 10, 2001)	Attorney's Docket No. 123851-181898 (GNE-
)	2830-P1C38)
For: PRO1759 POLYPEPTIDES)	
)	Customer No. 77845

Filed Via EFS: June 5, 2008

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

On April 12, 2007, the Examiner made a final rejection to pending Claims 28-35 and 38-40. A Response to Final Office Action was filed on August 13, 2007. A Notice of Appeal was subsequently filed on September 11, 2007. An Advisory Action was mailed on November 13, 2007. An Appeal Brief was filed on January 10, 2008.

A Notification of Non-Compliant Appeal Brief was mailed February 5, 2008, which stated that the Appeal Brief did not fit with the criteria of 37 C.F.R. §41.37(c)(1)(v)). Specifically, the notification asserted that, in Section 5, the "summary of the claimed subject matter does not map the independent claim on appeal, to the specification by page and line numbers and to the drawings, if any (claim 28)." The following amended Appeal Brief has been corrected to more clearly reference the claims and identify line numbers where appropriate in the Summary of Claimed Subject Matter (Section 5), as requested by the PTO.

To reduce expense and duplication, Appellants hereby resubmit only Section 5 of the Appeal Brief. The Board is requested to refer to the Appeal Brief submitted in its entirety dated January 10, 2008. This response to Non-Compliant Brief is timely filed, with a request for a three month extension of time and the necessary fees.

described in the specification at, for example, page 302, lines 4-26. The preparation of chimeric PRO polypeptides, including those wherein the heterologous polypeptide is an epitope tag or an Fc region of an immunoglobulin, is set forth in the specification at page 358, lines 11-34. Examples 128-131 describe the expression of PRO polypeptides in various host cells, including *E. coli*, mammalian cells, yeast and Baculovirus-infected insect cells. Finally, Example 143, in the specification at page 494, line 20, to page 508, line 28, sets forth a Gene Amplification assay which shows that the PRO1759 gene is amplified in the genome of certain human lung or colon cancers (Table 8).

The specification discloses that antibodies to PRO polypeptides may be used, for example, in purification of PRO (page 380, lines 15-21 and Example 133), in diagnostic assays for PRO expression (page 363, line 31, to page 364, line 3, and page 380, lines 2-13), as antagonists to PRO (page 371, lines 27-30), and as elements of pharmaceutical compositions for the treatment of various disorders (page 379, lines 1-37).

CONCLUSION

For the reasons given above, Appellants submit that the Appeal Brief submitted with regards to the instant application meets the requirements of 37 C.F.R. §41.37(c)(1)(v)).


Accordingly, Appellants hereby request consideration by the Board of Patent Appeals and Interferences.

Please charge any additional fees, including fees for additional extension of time, or credit overpayment to Deposit Account No. 07-1700 (referencing Attorney's Docket

No. **123851-181898 (GNE-2830-PIC38)**.

Respectfully submitted,

Date: June 5, 2008

By: 
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